

***United States Court of Appeals  
for the Second Circuit***



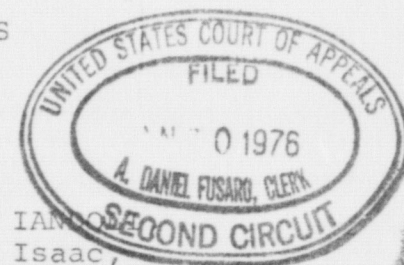
**APPELLEE'S BRIEF**



75-7632

ERR  
RPR  
JSS

In The  
UNITED STATES COURT OF APPEALS  
For the Second Circuit



NEW WATCH-DOG COMMITTEE, THOMAS M. IANNO, Ray Cannon, James Nitecki, Ernesto Isaac, Peter Behrens, Anthony Fasolina, Al Bernstein, Matthew Riccardello, Harvey McLemore, Earl Winthal and John Hajek, on behalf of themselves individually and on behalf of all others similarly situated,

Plaintiffs-Appellants,

HARRY VAN ARSDALE, JR., President, CHARLES BONO, BEN GOLDBERG, HARRY MENDEZ, ROBERT J. PANCALDO, ELIAS RICK, HOWARD WILLIAMS, Vice Presidents, JOSEPH PARADISE, Secretary, RICHARD WM. ROGERS, SR., Recording Secretary, HERMAN MEYERS, Treasurer, SID PACK, LUIS PEREZ, SAM EASTMAN, LEONARD FINE, ALBERT A. FOSTER, PETER TANNENBAUM, ARTHUR STRICKLAND, EDWARD ZARR, Executive Council Members, as officers of the NEW YORK CITY TAXI DRIVERS UNION, LOCAL 3036, AFL-CIO, and individually; NEW YORK CITY TAXI DRIVERS UNION, LOCAL 3036, AFL-CIO; GEORGE MEANY, President, LANE KIRKLAND, Secretary Treasurer, JOSEPH D. KEENAN, PAUL HALL, PAUL JENNINGS, A. F. GROSPIRON, PETER BOMMARITO, FREDERICK O'NEAL, JERRY WURF,

BRIEF FOR DEFENDANTS-APPELLEES  
Harry Van Arsdale, Jr., President  
and other Officers and Executive  
Council Members of the New York  
City Taxi Drivers Union, Local  
3036, AFL-CIO and the New York City  
Taxi Drivers Union, Local 3036,  
AFL-CIO

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JAMES T. HOUSEWRIGHT, MARTIN J. WARD, JOSEPH P. TONELLI, C. L. DELLUMS, RICHARD F. WALSH, I. W. ABEL, MAX GREENBERG, MATHEW GUINAN, PETER FOSCO, FLOYD E. SMITH, S. FRANK RAFTERY, GEORGE HARDY, WILLIAM SIDELL, ALBERT SHANKER, FRANCIS S. FILBEY, LEE W. MINTON, HUNTER P. WHARTON, JOHN H. LYONS, C. L. DENNIS, THOMAS GLEASON, LOUIS STULBERG, ALEXANDER J. ROHAN, AL. H. CHESSER, MURRAY H. FINLEY, SOL STETIN, GLENN E. WATTS, Executive Council Members, as officers of the American Federation of Labor and Congress of Industrial Organizations, and individually; the AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS.

Defendants-Appellees.

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Attorney for Defendants-Appellees:  
Harry Van Arsdale, Jr., President  
and other Officers and Executive  
Council Members of the New York  
City Taxi Drivers Union, Local  
3036, AFL-CIO and the New York  
City Taxi Drivers Union, Local  
3036, AFL-CIO



UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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NEW WATCH-DOG COMMITTEE, THOMAS M. IANDOLI, et al.,  
on behalf of themselves individually and on  
behalf of all others similarly situated,

Plaintiffs-Appellants,

vs.

HARRY VAN ARSDALE, JR., President, et al.,

Defendants-Appellees.  
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BRIEF ON BEHALF OF DEFENDANTS-APPELLEES  
Harry Van Arsdale, Jr., President, and  
other Officers and Executive Council  
Members of the New York City Taxi Drivers  
Union, Local 3036, AFL-CIO and the New  
York City Taxi Drivers Union, Local 3036,  
AFL-CIO

The New York City Taxi Drivers Union, Local 3036,  
AFL-CIO, is a Directly Affiliated Local Union of the  
AFL-CIO. As a "D.A.L.U.", Local 3036 is regulated along  
with all D.A.L.U.'s by the parent body. This regulation  
covers many areas, among them finances. (See AFL-CIO  
Constitution, Article XIV, Sec. 2, p. 38, Joint Exhibit  
Volume, p. 12.)

The decisions of the AFL-CIO are binding upon the  
Local. Therefore, the Constitution and By-Laws of Local  
3036 states:

"In the event that this Constitution and  
By-Laws may be in conflict with the Constitution

and By-Laws of the American Federation of Labor and Congress of Industrial Organizations, the American Federation of Labor and Congress of Industrial Organizations Constitution shall prevail." (See Joint Exhibit Volume, p. 9.)

This language expressly incorporates the provisions of Rule 3, Page 3, of the "Rules Governing Directly Affiliated Local Unions" of the AFL-CIO. (See Joint Exhibit Volume, p. 17.)

In 1975 the AFL-CIO directed all D.A.L.U.'s to increase their minimum dues to \$6.00 a month. By letter of August 11, 1975 the AFL-CIO notified Local 3036 and all other D.A.L.U.'s of this directive. (See Joint Exhibit Volume, p. 1.) Local 3036, at that point, had been charging dues at a staggered rate of \$2.50 and \$3.50 a month. This dues structure plainly was inconsistent with the new AFL-CIO directive. As the natural consequence of these facts, the Secretary of Local 3036 sent a letter to members, dated September 25, 1975, advising them that dues would be raised, effective November 1, 1975, to \$6.00 a month, which was the required minimum. (See Joint Exhibit Volume, p. 2.)


There was thus no issue that might have been submitted to the membership. The AFL-CIO had decreed the change, and Local 3036 complied. This was in perfect accord with (and was in fact required by) the Constitution



of the AFL-CIO. That a different procedure would have been followed had Local 3036 hypothetically sought to initiate an increase in dues above the minimum prescribed by the AFL-CIO is irrelevant upon its face to these proceedings.

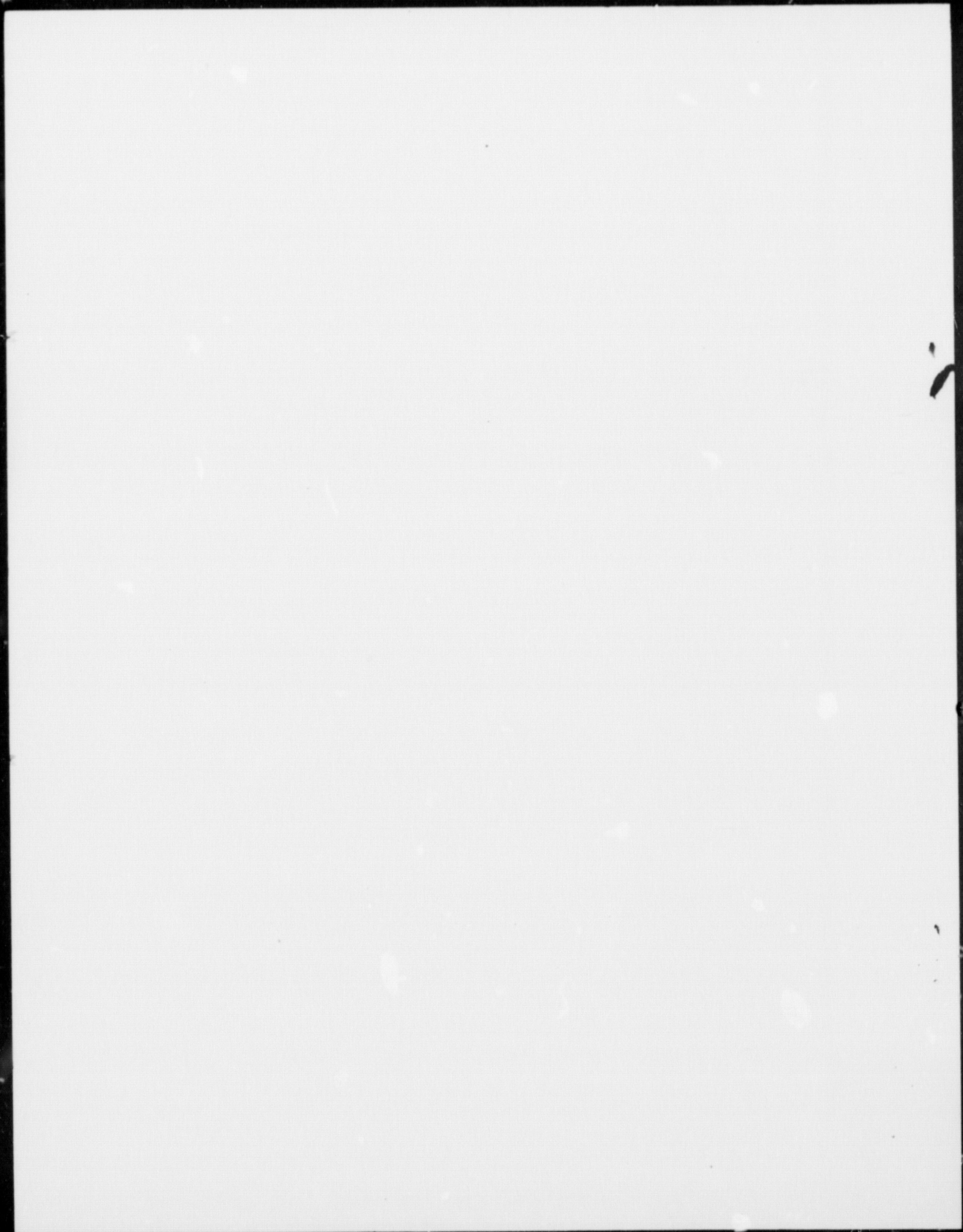
Local 3036 is bound by the directives of the AFL-CIO. The recent increase in minimum dues collectible by D.A.L.U.'s is but one instance in which the relationship of Local 3036 to the AFL-CIO has been reaffirmed.

Respectfully submitted,

  
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Donald F. Menagh

Attorney for Defendants-Appellees  
Harry Van Arsdale, Jr., President, and  
other Officers and Executive Council  
Members of the New York City Taxi Drivers  
Union, Local 3036, AFL-CIO and the New  
York City Taxi Drivers Union, Local 3036,  
AFL-CIO

Irwin Geller,  
of Counsel





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## AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK,  
CITY OF NEW YORK,  
COUNTY OF New York, ss.:

Jules Salton, being duly sworn, deposes and says that he is over 18 years of age.

That on the 30th day of January, 1976,

he served 3 copies of the within Defendant's Affidavit

upon Kenneth J. Tenen the

attorney for the above-named Defendant - affiant

by depositing 3 copies of the same securely enclosed

in a post-paid wrapper in a branch depository maintained

and exclusively controlled by the United States Post Office

at Grand & Church Sts. New York City

addressed to said attorney for the att.

at No. 14 Mamanick Avenue

W. H. W. W. W. New York 10601, that

being the address within the State designated by him

for that purpose upon the preceding papers as the place

where he regularly kept an office, and at which place

he regularly received mail.

Sworn to before me this

30th day of January, 1976.

Mary Casella  
Notary Public

MARY CASELLA  
Notary Public, State of New York  
No. 31-0592250  
Qualified in New York County  
Commission Expires March 30, 1977